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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/800,524	03/08/2001	Kunimasa Suzuki	204078US6	5017

22850 7590 04/17/2009

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EXAMINER	
SHAAWAT, MUSSA A	

ART UNIT	PAPER NUMBER
3627	

NOTIFICATION DATE	DELIVERY MODE
04/17/2009	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No.	Applicant(s)	
	09/800,524	SUZUKI ET AL.	
	Examiner	Art Unit	
	MUSSA A. SHAAWAT	3627	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *03 February 2009*.

2a)☒ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,2,4-7,9-12,14-17 and 19-25* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,2,4-7,9-12,14-17 and 19-25* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

Response to Amendment

1. This action is in response to amendment filed on 02/03/2009. Claims 3, 8, 13 and 18 have been previously cancelled. Claims 1-2, 4-7, 9-12, 14-17, and 19-25 are pending examination.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 1-2, 4-7, 9-12, 14-17, and 19-25 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 1, 6, 11, 16 and 25 recite "means for deleting a portion of the generating a portion of the generated stock control information corresponding to a quantity of the old product purchased in the first sales channel and a quantity of the old product purchased in the second sales channel to produce updated stock control information excluding old product information, when a current date is within a predetermined number of days before the debut date" which renders the claims indefinite. For the purpose of examination the examiner will interpret the claimed language as best understood.

Dependent claims are rejected based on their dependency from a rejected claim. Appropriate corrections are required by the applicant.

Claim Rejections – 35 U.S.C. 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. The factual inquiries set forth in *Graham v. John Deere Co.*, 148 USPQ 459, that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or unobviousness.

6. Claims 1-2, 4-7, 9-12, 14-17, and 19-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sharp et al. US Pat. No. (6,263,317), in view of Hafner et al. US Pat. No. (5,839,076) in view of Mukherjee et al., US patent No. (5,311,424) referred to hereinafter as Mukherjee.

Sharp disclose order information receiving means for receiving via a computer global network 150 at least first and second order information of merchandise (See for example Col. 1, line 56); the first order information being formed based on first purchase requests received via respective first sales channels See Col. 1, lines 54-58, receiving purchase orders via internet using the network) that use the network; and a second order information being formed based on a second purchase requests received via a

second sales channel which is a point-of-sale location that does not use the network (i.e., first and second customer**s**; See Col. 1, lines 54-58, see **also fig. 1, which shows retailer 140 interpreted herein as the second sales channel**, See also for example Col. 3, lines 14-17), the first order information indicating a first quantity of merchandise purchased via the first sales channel and the second order information indicating a second quantity of merchandise purchased via the second sales channel; means for instructing a supplier of said merchandise to supply the merchandise based on the stock information (see col.3 lines 35-60); means for grasping an actual sales condition of said merchandise in the first and second sales channels based on the order information (see col. 3 line 61-col.4 line 55).

Sharp Does not expressly teach generating stock control information to control a stock of said merchandise to be distributed to the first and second sales channels based on the first and second order information and indicating through which of the first sales channel and the second sales channel a purchase request was received; and means for deleting a portion of the generating a portion of the generated stock control information corresponding to a quantity of the old product purchased in the first sales channel and a quantity of the old product purchased in the second sales channel to produce updated stock control information excluding old product information, when a current date is within a predetermined number of days before the debut date.

However Hafner, teaches generating stock control information to control a stock of said merchandise to be distributed to the first and second sales channels based on the first and second order information and means for deleting a portion of the generating

a portion of the generated stock control information corresponding to a quantity of the old product purchased in the first sales channel and a quantity of the old product purchased in the second sales channel to produce updated stock control information excluding old product information(see at least col.5 line15-col.6 line41). It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the teachings of Hafner into the disclosure of Sharp in order to effectively manage inventory.

Both Sharp et al., and Hafner et al., do not expressly teach means for storing information regarding a debut date on which a new product in the merchandise will replace an old product in the merchandise. However Mukherjee teaches means for storing information regarding a debut date on which a new product in the merchandise will replace an old product in the merchandise (see at least col. 4 lines 55-68). It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the teachings of Mukherjee into the disclosure of Sharp in view of Hafner in order to prevent the accumulation of unwanted inventory.

Re: Claim 4 Sharp teaches receiving order information via the internet (see col. 1 lines 50-60)

Re: Claims 5-6, 9-11, 14-16,19-20, and 25, the limitations of claims 5-6, 9-11, 14-16, 19-20 and 25, are similar to the limitations of claims 1, and 4, therefore they are rejected based on the same rationale.

Re claims 2, 7, 12, and 17, these claims are rejected under the old Official notice rejection dated 4/7/206, the rejection was not traversed by applicant therefore according

to MPEP 2144.03(c) it is considered admitted prior art. Sharp et al. in view of Hafner et al. lack the specific teaching of stopping the supply of merchandise due to the sales debut of a new product. However, it is well known in the art to stop the supply of a product when it is about to be replaced by a new product and it would have been obvious to one of ordinary skill in the art at the time of the invention to employ the step of stopping the supply of a product for a predetermined period before a new product is released, to prevent the accumulation of unwanted inventory.

Re claim 21-24: although Sharp does teach updating stock or inventory, Sharp does not expressly teach receiving an indication that the merchandise is returned or exchanged at the point of sale location. However Hafner teaches receiving an indication that the merchandise is returned or exchanged at the point of sale location (see at least col.3 line 64-col.4 line 15). It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teachings of Hafner into the disclosure of Sharp in order to better manage the merchants inventory.

Claim Rejections – 35 U.S.C. 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

8. The factual inquiries set forth in *Graham v. John Deere Co.*, 148 USPQ 459, that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or unobviousness.

9. Claims 1-2, 4-7, 9-12, 14-17, and 19-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sharp et al. US Pat. No. (6,263,317), in view of Hafner et al. US Pat. No. (5,839,076) in view of Mukherjee et al., US patent No. (5,311,424) referred to hereinafter as Mukherjee.

Sharp disclose order information receiving means for receiving via a computer global network 150 at least first and second order information of merchandise (See for example Col. 1, line 56); the first order information being formed based on first purchase requests received via first sales channel (See Col. 1, lines 54-58, receiving purchase orders via internet which is a first sales channel that uses the network) that use the network (See for example Col. 3, lines 14-17), the first order information indicating a first quantity of merchandise purchased via the first sales channel; means for instructing a supplier of said merchandise to supply the merchandise based on the stock information (see col.3 lines 35-60); means for grasping an actual sales condition of said merchandise in the first and second sales channels based on the order information (see col. 3 line 61-col.4 line 55).

Sharp teaches a retailer block 140 in figure 1; Sharp does not expressly teach a second order information being formed based on a second purchase request received via a second sales channel which is a point-of-sale location that does not use the

network, the second order information indicating a second quantity of merchandise purchased via the second sales channel.

However in previous final action mailed out on 09/18/2006 (page 3), **Official Notice was taken that it was well known in the art of commerce to make a purchase request for a new product that is to be stored in a second sales channel which is a point of sales location (i.e., a retail location from which the owner of the retail establishment, acting as a customer, makes a purchase request from a supplier to restock his/her shelves) that does not utilize the network (i.e., the retail establishment uses mail, face-to-face, phone, or fax communication to make/send purchase request)**. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Sharp's disclosure to include a second sales channel not using the network in order to account for the overall inventory of a company that uses both the internet and brick & mortar to sell their products. **In addition going back to the final office action mailed out on 09/18/2006 on page 4 in the response to argument, since the applicant did not properly traverse the use of Official Notice in his arguments received 06/27/2006, the lack of traversal is treated as an admission by the applicant that the limitations described by the examiner as being well known are in fact well known.**

Sharp Does not expressly teach generating stock control information to control a stock of said merchandise to be distributed to the first and second sales channels based on the first and second order information and indicating through which of the first sales channel and the second sales channel a purchase request was received; and means for

deleting a portion of the generating a portion of the generated stock control information corresponding to a quantity of the old product purchased in the first sales channel and a quantity of the old product purchased in the second sales channel to produce updated stock control information excluding old product information, when a current date is within a predetermined number of days before the debut date.

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Re claim 21-24: although Sharp does teach updating stock or inventory, Sharp does not expressly teach receiving an indication that the merchandise is returned or exchanged at the point of sale location. However Hafner teaches receiving an indication that the merchandise is returned or exchanged at the point of sale location (see at least col.3 line 64-col.4 line 15). It would have been obvious to one of ordinary

skill in the art at the time the invention was made to incorporate the teachings of Hafner into the disclosure of Sharp in order to better manage the merchants inventory.

Response to Arguments

10. Applicant's arguments have been considered but are moot in view of new grounds of rejection.

Examiner notes that the official notice taking by the examiner in the previous office action was not traversed by the applicant therefore it is considered to be admitted prior art according o the MPEP.

Conclusion

11. Please refer to form 892 for cited references.

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to MUSSA A. SHAAWAT whose telephone number is (571)272-2945. The examiner can normally be reached on Mon-Fri (8am-5:30pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Florian Zeender can be reached on 571-272-6790. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Mussa A Shaawat/
Examiner, Art Unit 3627
April 13, 2009

/F. Ryan Zeender/
Supervisory Patent Examiner, Art Unit 3627